

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

FEDERAL HOME LOAN)
MORTGAGE CORPORATION,)

Plaintiff,)

V.

No. 2:22-cv-00148-LEW

MARY JOHNSON and JAMES A.
JOHNSON, *et al.*,

Defendants.)

ORDER

In this action, Plaintiff Federal Home Loan Mortgage Corporation seeks to foreclose on a note and mortgage executed by Defendant James A. Johnson on February 27, 2009. Although Defendant Mary Johnson also executed the mortgage, she did not execute the corresponding note. As alleged, the mortgage was recorded and assigned to a series of holders, ending with Plaintiff.

The matter is before the Court on Defendant James Johnson’s “Motion to Vacate Void Action” (ECF No. 12) and Defendant Mary Johnson’s Motion for Partial Judgment on the Pleadings (ECF No. 19).

JAMES JOHNSON'S MOTION

Mr. Johnson argues that the Complaint for Foreclosure fails to state a claim and that the matter, consequently, is not within this Court's jurisdiction. He relies on the following requirement of Maine law:

In order to state a claim for foreclosure upon which relief can be granted, the complaint must contain a certification of proof of ownership of the mortgage note. The mortgagee shall certify proof of ownership of the mortgage note and produce evidence of the mortgage note, mortgage and all assignments and endorsements of the mortgage note and mortgage.

14 M.R.S. § 6321.

Plaintiff has, in fact, certified proof of ownership in its complaint and provided attachments to its complaint consisting of the mortgage note, mortgage, and all assignments, etc., leading to its alleged ownership and possession of the note and mortgage. Complaint ¶¶ 2, 10-15, 19-20; Note (ECF No. 1-2); Mortgage (ECF No. 1-3); Assignments (ECF Nos. 1-4 – 1-7). For purposes of Fed. R. Civ. P. 12(b) these allegations and attachments suffice to certify that Plaintiff has standing to pursue this foreclosure action. *United States v. Mason*, No. 2:15-cv-00419-JDL, 2015 WL 4715613, at *5 (D. Me. Aug. 7, 2015). Accordingly, Defendant James Johnson's Motion (ECF No. 12) is **DENIED**.

MARY JOHNSON'S MOTION

Mary Johnson requests judgment on the pleadings against Counts IV (quantum meruit) and V (unjust enrichment). Her Motion (ECF No. 19) is **GRANTED** for the reasons stated in her Motion and because Plaintiff has not opposed her Motion. *See* D. Me. Loc. R. 7(b) ("Unless within 21 days after the filing of a motion the opposing party files written objection thereto, incorporating a memorandum of law, the opposing party shall be deemed to have waived objection.").

SO ORDERED.

Dated this 17th day of October, 2022.

/s/ Lance E. Walker
UNITED STATES DISTRICT JUDGE

